

NOTICE OF EMERGENCY RULE REPEAL AND PROMULGATION

AGENCY: Department of Marine Resources

STATUTORY AUTHORITY: 12 M.R.S.A. Sections 6172 and 6192

RULE REPEAL AND PROMULGATION: DMR Regulation 96.22, Closed Area No. 1000, Maine Coast, promulgated September 25, 1989, is repealed and replaced with the following rule:

TEXT OF RULE: DMR Regulation 96.22, Closed Area No. 1000, Maine Coast

1. Effective immediately, because of contamination (paralytic shellfish poisoning), it shall be unlawful to possess any scallops, whole or intact, or scallop viscera taken from Maine coastal waters and those off-shore waters of the U.S. Exclusion Economic Zone (200 mile limit) between the following two boundaries: (1) the Maine - New Hampshire border to the limits of the U.S. jurisdiction; and (2) the Canadian - U.S. boundary extending seaward out to the limits of the U.S. jurisdiction.

EXCEPTION:

- A) It shall be lawful to shuck whole and intact scallops at the time of harvesting or at a shoreside wholesale dealer's facility, but only the adductor muscle shall be retained for personal use, wholesale or retail trade.
- B) It shall be lawful for an aquaculturist with an approved aquaculture lease, and a signed Memorandum of Understanding with the Department of Marine Resources to harvest, possess and distribute whole scallops which are grown on their specified lease site as long as the lease site is in the open status.

Violation of any provision of this regulation shall be a Class D Crime (12 M.R.S.A. 6204).

EFFECTIVE DATE: October 19, 1999

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STATEMENT OF FACT AND POLICY

The Commissioner of the Maine Department of Marine Resources repeals the emergency DMR Regulation 96.22, Closed Area No. 1000, Maine Coast, promulgated September 25, 1989, and replaces it with a new regulation. This new regulation provides an exception for aquaculturists to harvest, possess and distribute whole scallops that they have grown on their lease site. This exception applies to aquaculturists with an approved lease site who have implemented a Memorandum of Understanding with the department for the purpose of defining the sampling procedures necessary to assure that the product is safe from biotoxin contamination.

As authorized by 12 M.R.S.A. Section ;6172, department personnel have determined that scallop viscera in both the in-shore and off-shore waters contain dangerous levels of Paralytic Shellfish Poison. Consequently, the Commissioner adopts this regulation to protect the public health. However, through rigorous control of harvest and appropriate testing, aquaculture-reared scallops may be safe for consumption.


E. PENN ESTABROOK
Deputy Commissioner